

AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1349**

**Introduced by Assembly Member Goldberg**

February 22, 2005

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An act to ~~amend Section 11839.20 of, and to add Sections 11758.421; and 11758.425; and 11877 to,~~ to the Health and Safety Code, relating to narcotic treatment programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1349, as amended, Goldberg. Narcotic treatment programs.

Existing law authorizes the State Department of Alcohol and Drug Programs to enter into a Medi-Cal Drug Treatment Program contract with each county for the provision of services within the county service area. Existing law requires the department to establish fees for controlled substances dispensed to Medi-Cal beneficiaries under this program based on a per capita uniform statewide monthly reimbursement rate. Existing law requires that reimbursement under the program be limited to the lower of that uniform statewide monthly reimbursement rate or the provider's usual and customary charge to the public for the same or similar services.

This bill would provide that if a narcotic treatment program provider establishes a sliding indigency scale for low-income persons who are not eligible to participate in the Medi-Cal Drug Treatment Program in accordance with requirements established by the bill, the provider shall be deemed in compliance with federal and state law for purposes of the application of an exception to reimbursement requirements that would prohibit those reduced charges under the sliding indigency scale from lowering the provider's usual and customary charge determination for Medi-Cal reimbursement. The bill would also

authorize a narcotic treatment program provider to use an instruction and financial evaluation form that the bill would create to aid in implementing a sliding indigency scale.

~~Existing law establishes that the Legislature's intent in licensing narcotic treatment programs is to provide a means whereby the patient may be rehabilitated and will no longer need to support a dependency on narcotics. Existing law declares that the ultimate goal of all narcotic treatment programs shall be to aid the patient in altering his or her lifestyle and eventually to eliminate all dependency on drugs.~~

~~This bill would revise the Legislature's intent and declarations so that the Legislature's intent in licensing narcotic treatment programs would be to provide a means whereby the patient may be rehabilitated and will no longer need to support a dependency on heroin, and the ultimate goal of narcotic treatment programs would be to aid the patient in altering his or her lifestyle and eventually to eliminate the improper use of legal drugs and the abuse of illicit drugs.~~

~~The bill would also prohibit a court from directing a patient who is either a defendant or probationer in a court supervised rehabilitation program to discontinue narcotic replacement therapy unless the defendant's or probationer's treatment provider who is directly providing the narcotic replacement therapy recommends discontinuation and the court agrees that discontinuation is a necessary component of an effective treatment plan for the defendant or probationer.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 11758.421 is added to the Health and
- 2 Safety Code, to read:
- 3 11758.421. (a) (1) The Legislature finds and declares all of
- 4 the following:
- 5 (A) Medical treatment for indigent patients who are not
- 6 eligible for Medi-Cal is essential to protecting the public health.
- 7 (B) The Legislature supports the adoption of standardized and
- 8 simplified forms and procedures in order to promote the drug
- 9 treatment of indigent patients who are not eligible for Medi-Cal.

1 (C) Providers should not be required by the state to subsidize  
2 the medical treatment provided to indigent patients who are not  
3 eligible for Medi-Cal.

4 (D) The Legislature supports the therapeutic value of indigent  
5 patients who are not eligible for Medi-Cal contributing some  
6 level of fees for drug treatment services in order to support the  
7 goals of those drug treatment services.

8 (2) It is the intent of the Legislature in enacting this section to  
9 encourage narcotic treatment program providers to serve indigent  
10 patients who are not eligible for Medi-Cal. It is also the intent of  
11 the Legislature that the State Department of Alcohol and Drug  
12 Programs allow narcotic treatment program providers to charge  
13 therapeutic fees for providing drug treatment to indigent patients  
14 who are not eligible for Medi-Cal if the providers establish a fee  
15 scale that complies with the documentation requirements  
16 established pursuant to this section and federal law.

17 (b) (1) The Legislature recognizes that narcotic treatment  
18 program providers are reimbursed for controlled substances  
19 provided under the Medi-Cal Drug Treatment Program, also  
20 known as Drug Medi-Cal (Chapter 3.4 (commencing with  
21 Section 11758.40)), and pursuant to federal law at a rate that is  
22 the lower of the per capita uniform statewide monthly  
23 reimbursement or Drug Medi-Cal rate, or the provider's usual  
24 and customary charge to the general public for the same or  
25 similar services.

26 (2) It furthers the intent of the Legislature to ensure that  
27 narcotic treatment programs in the state are able to serve indigent  
28 clients and that there is an exception to the reimbursement  
29 requirements described in paragraph (1), as the federal law has  
30 been interpreted by representatives with the Centers for Medicare  
31 and Medicaid Services. Pursuant to this exception, if a narcotic  
32 treatment program provider who is serving low-income non-Drug  
33 Medi-Cal clients complies with a federal requirement for the  
34 application of a sliding indigency scale, the reduced charges  
35 under the sliding indigency scale shall not lower the provider's  
36 usual and customary charge determination for purposes of  
37 Medi-Cal reimbursement.

38 (c) A licensed narcotic treatment program provider that serves  
39 low-income non-Drug Medi-Cal clients shall be deemed in  
40 compliance with federal and state law, for purposes of the

1 application of the exception described in paragraph (2) of  
2 subdivision (b), and avoid audit disallowances, if the provider  
3 implements a sliding indigency scale that meets all of the  
4 following requirements:

5 (1) The maximum fee contained in the scale shall be the  
6 provider's full nondiscounted, published charge and shall be at  
7 least the rate that Drug Medi-Cal would pay for the same or  
8 similar services provided to Drug Medi-Cal clients.

9 (2) The sliding indigency scale shall provide for an array of  
10 different charges, based upon a client's ability to pay, as  
11 measured by identifiable variables. These variables may include,  
12 but need not be limited to, financial information and the number  
13 of dependents of the client.

14 (3) Income ranges shall be in increments that result in a  
15 reasonable distribution of clients paying differing amounts for  
16 services based on differing abilities to pay.

17 (4) A provider shall obtain written documentation that  
18 supports an indigency allowance under the sliding indigency  
19 scale established pursuant to this section, including a financial  
20 determination. In cases where this written documentation cannot  
21 be obtained, the provider shall document at least three attempts to  
22 obtain this written documentation from a client.

23 (5) The provider shall maintain all written documentation that  
24 supports an indigency allowance under this section, including, if  
25 used, the financial evaluation form set forth in Section  
26 11758.425.

27 (6) Written policies shall be established and maintained that  
28 set forth the basis for determining whether an indigency  
29 allowance may be granted under this section and establish what  
30 documentation shall be requested from a client.

31 (d) In developing the sliding indigency scale, a narcotic  
32 treatment program provider shall consider, but need not include,  
33 any or all of the following components:

34 (1) Vertically, the rows would reflect increments of family or  
35 household income. There would be a sufficient number of  
36 increments to allow for differing charges, such as a six hundred  
37 dollar (\$600) increase per interval.

38 (2) Horizontally, the columns would provide for some other  
39 variable, such as family size, in which case, the columns would

1 reflect the number of people dependent on the income, including  
2 the client.

3 (3) Each row, except the first and last rows, would contain at  
4 least two different fee amounts and each of the columns, four or  
5 more in number, would contain at least six different fee amounts.

6 (4) The cells would contain an array of fees so that no fee  
7 would be represented in more than 25 percent of the cells.

8 (e) A narcotic treatment program provider that uses the  
9 financial evaluation form instructions and financial form set forth  
10 in Section 11758.425 in obtaining written documentation that  
11 supports an indigency allowance as required under paragraph (4)  
12 of subdivision (c) shall be deemed in compliance with that  
13 paragraph.

14 SEC. 2. Section 11758.425 is added to the Health and Safety  
15 Code, to read:

16 11758.425. A narcotic treatment program provider may use  
17 the following instructions and financial evaluation form to  
18 comply with the requirements of paragraph (4) of subdivision (c)  
19 of Section 11758.421:

20  
21 FINANCIAL EVALUATION FORM INSTRUCTIONS  
22 MONTHLY

23 ~~INCOME DATA—This data should specify the source and~~  
24 ~~the amount and be supported by sufficient documentation.~~

25 *MONTHLY INCOME DATA—This data should specify the*  
26 *source and the amount and be supported by sufficient*  
27 *documentation. Income data may include, but is not limited*  
28 *to, income received as a paid employee, unemployment*  
29 *benefits, disability benefits, pension payments, family*  
30 *income, savings income, or other sources.*

31 ~~—MONTHLY EXPENSES DATA—This data is not required~~  
32 ~~unless there is no evidence or documentation of income data.~~

33 *MONTHLY EXPENSES DATA—This data is not required*  
34 *unless there is no evidence or documentation of income data.*

35 Expenses data may include, but are not limited to, any  
36 known expenses related to the following:

37 (1) Court ordered payments, such as child support, fines,  
38 debts, restitution, or other payments.

39 (2) Housing-related expenses, such as rent, mortgage,  
40 insurance, utilities, or other obligations.

1 (3) Transportation costs, such as any related expenses,  
2 including auto payments or auto insurance payments.

3 (4) Insurance coverage should also be noted if it produces  
4 either an expense or benefit to the client.

5 ~~CLIENT MONTHLY TREATMENT FEE--The following~~  
6 ~~applies to~~

7 ~~this data:~~

8 *CLIENT MONTHLY TREATMENT FEE—The following*  
9 *applies to this data:*

10 (1) The amount box indicates the client's fee according to  
11 his or her location on the sliding scale.

12 (2) The adjusted client monthly fee box is to be filled only if  
13 the fee to be charged differs from the fee indicated by the  
14 client's location on the sliding scale.

15 (3) If the fee is adjusted from what the sliding scale would  
16 indicate, a reason for the adjustment must be provided.

17 (Valid reasons might include extraordinary medical expenses  
18 for a client suffering from HIV/AIDS, etc.).

19 ~~PLEASE NOTE--The documentation for this form requires~~  
20 ~~that~~

21 ~~the provider make at least three documented attempts~~

22 ~~to~~ *PLEASE NOTE—The documentation for this form*

23 *requires that the provider make at least three documented*

24 *attempts to collect documentation from a client. Any*

25 *questions on this form may be directed to the department at*

26 *( ).*

27  
28 ~~SEC. 3. Section 11839.20 of the Health and Safety Code is~~  
29 ~~amended to read:~~

30 ~~11839.20. (a) It is the intent of the Legislature in licensing~~  
31 ~~narcotic treatment programs to provide a means whereby the~~  
32 ~~patient may be rehabilitated and will no longer need to support a~~  
33 ~~dependency on heroin.~~

34 ~~(b) It is the intent of the Legislature that each narcotic~~  
35 ~~treatment program shall have a strong rehabilitative element,~~  
36 ~~including, but not limited to, individual and group therapy,~~  
37 ~~counseling, vocational guidance, and job and education~~  
38 ~~counseling.~~

39 ~~(c) The Legislature declares the ultimate goal of all narcotic~~  
40 ~~treatment programs shall be to aid the patient in altering his or~~

1 her lifestyle and eventually to eliminatethe improper use of legal  
2 drugs and the abuse of illicit drugs.

3 (d) ~~The department shall adopt any regulations necessary to~~  
4 ~~ensure that every program is making a sustained effort to end the~~  
5 ~~drug dependency of the patients.~~

6 SEC. 4. ~~Section 11877 is added to the Health and Safety~~  
7 ~~Code, to read:~~

8 ~~11877. (a) The Legislature finds and declares that because~~  
9 ~~the possession and use of heroin are felonies, some patients in~~  
10 ~~nareotic treatment programs are simultaneously under the~~  
11 ~~jurisdiction of a court and the care of a treatment provider.~~

12 ~~(b) A court shall not direct a patient who is either a defendant~~  
13 ~~or probationer in a court supervised rehabilitation program to~~  
14 ~~discontinue nareotic replacement therapy unless the defendant's~~  
15 ~~or probationer's treatment provider who is directly providing the~~  
16 ~~nareotic replacement therapy recommends discontinuation and~~  
17 ~~the court agrees that discontinuation is a necessary component of~~  
18 ~~an effective treatment plan for the defendant or probationer.~~